

ADVISORY COMMITTEE MINUTES

May 9, 2006

Members Present:

Bob Shosted
Dave Gribskov
Steve Millard
Max Sheils
Dave Whaley
Senator Andreason
James Arnold

Glenna Christensen
Steve Haase
Linda Sams
Rian Van Leuven
Tracy Whigam
Representative Garrett

Members Absent:

John Greenfield

Chairman Bob Shosted called the meeting to order and asked for introductions of members and public attendees.

Minutes:

The Minutes of February 7, 2006, were reviewed and Chairman Shosted called for a motion to approve. Upon motion by Dave Whaley, seconded by Dave Gribskov, the Minutes were approved as written.

Legislative Update:

Balance Billing – Max Shiels – Subcommittee Chairman Max Sheils reported that balance billing legislation (*HB 649 amending §72-102 and §72-432*) passed the House and Senate by unanimous vote and becomes effective July 1, 2006. Mr. Sheils stated there were minimal changes in the final legislation from what was presented to the Advisory Committee.

Dependent Death Benefits – Jack Barrett – Subcommittee Chair Jack Barrett reported that dependent death benefit legislation (*SB 1371 amending §72-410 and §72-412*) passed the House and Senate unanimously. Mr. Barrett thanked Senator Andreason and Representative Garrett for their assistance and support of the bill.

Dave Gribskov asked if benefits to dependents would cease during the months when dependents are out of school. Mr. Barrett replied that he would anticipate that benefits would be paid only when dependents are attending school, however it is not in statute. He indicated that the issue might need to be addressed in Administrative Rules.

Pecuniary Gain – Blair Jaynes – Mr. Jaynes reported that legislation to remove the "pecuniary gain" exemption (*HB 648 amending §72-204 and §72-212*) was passed by the legislature and becomes effective July 1, 2006.

Medical Fee Rule – Chairman Limbaugh – Chairman Limbaugh reported that the Commission adopted a temporary medical fee rule effective April 1, 2006. The Commission's next step is to adopt a proposed medical fee rule, and then a pending rule to be submitted to the next legislative session. Chairman Limbaugh informed the members that the Commission has received questions regarding which Resource-Based Relative Value Scale (RBRVS), published by the Centers for Medicare & Medicaid Services of the U.S. Department of Health and Human Services, quarterly update is to be used. The Commission's rules state that the latest edition of updates as of the end of the calendar year is to be used for the entire following year.

Chairman Limbaugh reported on the meeting the Commission staff had with a group of local hand surgeons who would like to see the current conversion factors increased for a range of CPT codes used by their group. The Commission asked for a release from the surgeons to determine their reimbursement from the State Insurance Fund in the last year in order to compare that to the medical fee schedule reimbursement and they agreed. The Commission is in the process of analyzing that information. Chairman Limbaugh stated that the medical fee schedule continues to be a work in progress. The Chairman indicated that the Commission would like to hire a consultant to review the work already done on the medical fee schedule and pursue hospital and pharmaceutical reimbursement.

Chairman Limbaugh was asked how the Commission plans to reimburse ambulatory care centers since they bill differently. Chairman Limbaugh responded that the Commission currently has no rule regarding ambulatory care centers, and therefore would be handled as they were previously.

Dave Whaley asked if hearings would be held around the state once the proposed medical fee rule is drafted. Chairman Limbaugh's response was that he feels this rule was created by negotiated rulemaking and hearings may not be necessary. However, if enough requests are received, the Commission may hold a hearing in Boise.

Senator Andreason asked Bob Seeheusen with the Idaho Medical Association if it would be possible for doctors from around the state to sit down with the Commission to see if a consensus could be reached. Mr. Seeheusen responded that meetings with physicians and the Commission would be a viable option that should be tried before the next rulemaking session.

Public Comment

Robert Seehusen with the Idaho Medical Association commented that the Commission has done a great job creating a medical fee schedule in such a short amount of time especially when most states take several years. In doing so, inevitably some doctors will be upset by the reimbursements allowed and those doctors have spoken up. Testing and modifying will probably be an ongoing process for a time and Mr. Seehuesen hopes the Commission will continue to be open to modifying the rules as necessary.

Attorney Woody Richards thanked the Commission for the work they have done to come up with a medical fee schedule in such a short amount of time and for all the future work the Commission has yet to do with hospital and pharmaceutical reimbursements.

Subcommittee Reports

Kid's Chance Program - Jack Barrett reported that he presented the Kid's Chance Program to the Workers' Compensation Section of the Idaho State Bar at their meeting in Sun Valley and a resolution to adopt running the Kid's Chance program was unanimous. Mr. Barrett stated that he attended the national Kid's Chance meeting in New Orleans a few weeks ago and about 25 other states currently sponsor this program. Mr. Barrett has drafted articles of incorporation for the program that are currently being reviewed and draft by-laws are being worked on as well. Mr. Barrett will keep the Advisory Committee updated.

Uninsured Employers' Fund - Jack Barrett reported that the subcommittee for the Uninsured Employers' Fund met recently for several hours. Mr. Barrett stated that after conducting extensive research of statutes from various states he presented draft legislation to establish the fund. He reported that the subcommittee also discussed hiring a law student to conduct further research on establishing an Uninsured Employers' Fund, the legislation needed, and how to provide for ongoing funding. Mr. Barrett indicated that bankruptcy laws need to be looked at closely, funding is a major concern, and the failures and successes of other states should be reviewed. The progress of the subcommittee will be reported at the next Advisory meeting.

Membership - Subcommittee Chair Dave Whaley reported that Employee Representative Willis Norton resigned his position on the Advisory Committee. The members reviewed the bio of Rod Fuger with the United Association Local 648 in Pocatello. Mr. Whaley asked for a motion to approve Rod Fuger as the new Employee Representative member to complete Mr. Norton's term. Max Sheils so moved, James Arnold seconded, and the motion passed.

Upcoming Vacancies and Nominations for Replacement Members

Chair of the Nominating Committee Max Sheils reported that the subcommittee met briefly this morning, and would be determining who desires to serve another term and what vacancies need to be filled. Mr. Sheils asked that nominations be forwarded to Commission Secretary Nancy Beeson for distribution to the members before the next meeting.

Certification Program Presentation

Benefits Administration Manager Scott McDougall gave a brief overview of the Commission's Certified Idaho Workers' Compensation Specialist Course and how it was established. To date 21 classes have been held with 403 attendees and 226 certifications have been issued. Mr. McDougall introduced Compensation Consultant Kim Takagi who played a major role in writing the program and continues to teach the course across the state with the assistance of Consultant's Jennifer Poole and Patti Jarossy. The consultants, Ms. Takagi, Poole, and Jarossy,

and Mr. McDougall conducted an interactive test with the Advisory Committee members to give them a sampling of the type of information taught in the course.

Mr. McDougall was asked if there was a plan in the future for making the certification course mandatory for workers' compensation practitioners. Mr. McDougall replied that no such plan exists.

Other Issues

Industrial Commission Report - Director Mindy Montgomery reported that the Commission received appropriations to relocate the Boise Commission office. Three locations were seriously considered from the Request for Proposal's received and the possibility of building our own building is being considered. The Washington Group facility and an office building on Orchard Street were considered, but the Commission is favoring the Boise Cascade office space, as it would better meet the needs of the Commission. However, more meetings with the Boise Cascade owners are needed before a final decision can be made.

Ms. Montgomery also reported that the Commission has decided to relocate the Boise Rehabilitation office from the main Commission office to a more centrally located space that allows easier access to the public and claimants. The Commission is still previewing available office space.

Funding Issue - Chairman Limbaugh reported that the legislative exit audit report indicated the Commission's excess fund balance was a little high, however, the auditors did not take into account six months of operating costs before the Commission receives further funding. After receipt of premium taxes less six months of normal operating costs, the balance would be approximately 4.0 mm. With the uncertainty of insurers reducing premiums or increasing deviations, the Commission's free fund balance needs to be fairly significant in order to remain solvent. Chairman Limbaugh indicated that the Finance subcommittee should meet and include Senator Cameron who was concerned about actions that could deplete Commission funds. The Commission's concern is that premiums could drop again and the Uninsured Employers Fund may take some of our revenues to supplement its funding, which could place the Commission's funding in jeopardy. The Commission will continue to monitor the fund's balance. Commissioner Limbaugh reported that the auditors suggested that the Commission propose legislation to include a trigger effect mechanism on premium taxes based on the Commission's fund balance. Commissioner Limbaugh's response was that several entities, mainly sureties, would not be in favor of that type of legislation.

Public Comment:

Attorney Woody Richards concurred.

Legislator Education - Representative Garrett asked what type of legislator education was discussed at the previous Advisory Committee meeting as indicated by the minutes. Discussion was held on what type of education would be most helpful to legislators to assist in making more informed decisions. Representative Garrett suggested that education be done prior to

legislation being presented to legislators. It was suggested the Commission or their representative present overviews of the Commission's role, a brief workers' comp 101, the delicate balance of the workers' comp system, and discuss specific issues that legislators may be dealing with regarding the workers' comp system. The presentation should be done early in the year, preferably in January. Representative Garrett also indicated that Jack's presentations in past years have been very helpful and would appreciate his continued support. Representative Garrett also stated that testimony given by members of the Advisory Committee on proposed legislation is appreciated and she looks forward to the Advisory members continued participation.

Steve Millard and Dave Whaley both concurred that educational presentations should be done, and that since there is little time allowed for legislators to make decisions on proposed legislation, objective information should be presented before having to address proposed legislation.

Public Comment:

Mr. Barrett stated that a general overview of the workers' compensation system is not very effective in helping legislators understand what effect proposed legislation may have on the program. Mr. Barrett suggested that an objective analysis of proposed legislation be discussed with legislators and should come from the Advisory Committee, but isn't sure how that could be done.

Topics for discussion at the next meeting:

- Legislator educational topics
- Nominees for Advisory Committee positions
- Uninsured Employers Fund
- Update on Kid's Chance Program

The next meeting was scheduled for August 29, 2006.

There being no further business, the meeting adjourned.